

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

FILED

EDWARD JOSEPH McNATT,
Petitioner,

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JUDGE OLIVER J. LOBAUGH,
Respondent.

C.A. NO. 05 – 124 ERIE

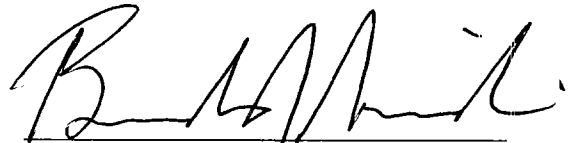
CLERK
U.S. DISTRICT COURT

MOTION TO DISMISS FOR FAILURE TO EXHAUST STATE REMEDIES

1. On June 09, 2006, an evidentiary hearing on the above-entitled action was scheduled.
2. The petitioner claims violations of federal law in the form of double jeopardy, denial of due process, denial of access to the courts, malicious prosecution, illegal detention and unlawfully induced guilty plea under both the state and U.S. Constitutions.
3. Not even one of the above claims was afforded an opportunity to be resolved in the State's established appellate review process.
4. The petitioner currently has a PCRA pending resolution in the Superior Court of Pennsylvania.
5. Since the petitioner did not present his federal claims to Pennsylvania Courts, consideration of the claims in federal court by means of habeas corpus is procedurally barred.
6. Petitioner has not met all the procedural requisites entitling him to relief.

WHEREFORE, the Respondent prays this Honorable Court exercise its authority and deny the above-entitled Petition for Writ of Habeas Corpus as procedurally defaulted.

BY:

A handwritten signature in black ink, appearing to read 'B. Servidio', is written over a horizontal line.

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